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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/933,790	08/21/2001	Timothy J. Mousley	GB 000139	6733

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EXAMINER

AMINZAY, SHAIMA Q

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/933,790	<b>Applicant(s)</b> MOULSLEY ET AL	
	<b>Examiner</b> Shaima Q. Aminzay	<b>Art Unit</b> 2684	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## ***DETAILED ACTION***

### ***Response to Arguments***

**Note:** This office action has been restructured for clarity reflecting the new amendments, and added new claims (Amendment: September 29, 2005).

Examiner did not change the ground of rejection; but has changed the argument of the rejection for clarity. The references Chuah (Chuah et al. U. S. Patent 6,587,672) in view of Muller (Muller U. S. Patent 6,490,461) teach the limitations of the claims, and the Examiner shows (rejection bellow) that the references are related to the claimed limitations.

1. Applicant's arguments with respect to claims 1-20 under 35 U.S.C. 103(a)

Rejection has been fully considered, but they are not persuasive.

The applicant's argued features in the claims, i.e., providing a digital wireless communications system transferring information in units over a wireless digital communications link between a transmitting station and a receiving station comprising transmitter(s) for transmitting information units at a first power level, and receiver(s) for receiving the transmitted information units, and controller for controlling the transmitter output power and monitoring means for monitoring the reception of the transmitted units at the receiver for receiving correct information, and if indicate correct reception does not occurred, the transmitter transmits second information units associated with the first information units, the second information units being transmitted at a second power level which is controlled

between target and actual quality of reception parameters for the second information units, further, "changing transmitted power based on the disparity or difference between the received signal and the threshold", "a second power level which is controlled on the basis of the disparity between target and actual quality of reception parameters for said second information units", and "the target quality of reception parameter for said second information units is different to the target quality of reception parameter for said first information units" read upon Chuah (Chuah et al.) in view of Muller as follows.

Chuah discloses a wireless communication system related to Universal Mobile Telecommunication System (UMTS), the radio access network based on CDMA having transmitter, receiver, and controlling means to provide detection of receiving and transmitting power level between the base(s) and mobile station(s), disclosing the limitations "digital wireless communications system comprising at least one transmitter having means for transmitting first information units at a first power level; at least one receiver having means for receiving the transmitted information units; control means for controlling the transmitter output power".

Chuah uses data packets for transmission information and detecting transmission power levels, actual and target values, determining correct reception, if indication of not receiving correct reception, the transmission adjusted accordingly, therefore, Chuah discloses the limitation of "monitoring if correct reception of the transmitted units occurred at the receiver, wherein the transmitting means transmits second information units associated with the first

information units for which first information units the monitoring means does not indicate correct reception has occurred, the second information units being transmitted at a second power level which is controlled on the basis of the disparity between target and actual quality of reception parameters for said second information units, wherein the target quality of reception parameter for said second information units is different to the target quality of reception parameter for said first information units, the second information units allowing the content of the first information units to be established". Chuah does not specifically disclose monitoring mean, however, Chuah discloses detecting and monitoring correct reception, implying monitoring means. The implication led to search for similar reference, such as Muller. Muller discloses a wireless communication system and transmission power control affecting mobile and base station communications, and having monitoring means for monitoring correct reception. Chuah and Muller are both analogous to the applicants teaching, that's why they do obviate.

Therefore, Examiner believes the claims are broad enough to combining Muller's wireless communication system power monitoring means and method with Chuah's wireless communications system transmission power detection to provide a wireless communication system with multi-detection and continuously monitoring power levels for high quality transmission.

Chuah and Muller are both analogous to the applicants teaching, that's why they do obviate. The rejection is maintained.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-36 rejected on the ground of nonstatutory double patenting over claims 1-28 of U. S. Patent No. 6,898,417 by Mousley since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is the same as the subject matter of "method and apparatus for transferring information over a communications link includes transmitting information at a first power level, monitoring for correct reception of the transmitted information and transmitting" claimed in the '417 patent. Claims 1-28 of the '417 patent also pertain to the same subject matter as the pending claims in the instant application.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chuah (Chuah et al. U. S. Patent 6,587,672) in view of Muller (Muller U. S. Patent 6,490,461):

Regarding claim 1, Chuah discloses transferring information in units over a wireless digital communications link (see for example, Figure 1, 8) between a transmitting station (see for example, Figure 1, Node-b (6)) and a receiving station (see for example, Figure 1, mobile (2)), and transmitting first information units at a first power level (see for example, column 8, lines 20-24, the first information is being transmitted), and transmitting second information units associated with the first information units (see for example, column 8, lines 39-44, the second information associated with the first information is transmitted), for which first information units did not indicate correct reception occurred (see for example, column 8, lines 20-39), at a second power level which is controlled on the basis of the disparity between target and actual quality of reception parameters for said second information units (see for example, column 7, lines 61-67 continued to column 8, lines 1-50, based on the two thresholds DThresh1, PThresh1 and the CRC differences (disparity) first and second power level reception quality is controlled), wherein the target quality of reception parameter for said second information units is different to the target quality of reception parameter for said first information units (see for example, column 8, lines 35-63, the reception parameter target quality for the second units is different to the target quality for the first units), and the second information units allowing the content of the first information units to be established (see for example, column 8, lines 45-50, the increase of 1dB allowing the establishment of the first



information).

However, Chuah does not specifically teach monitoring means.

Muller discloses monitoring means for monitoring if correct reception of the transmitted units occurred at the receiver (see for example, column 2, lines 55-56, and lines 23-36, the controller monitors the transmission).

It would have been obvious to one of ordinary skill in the art at the time invention was made to combine Muller's wireless communication system power monitoring method and apparatus (Muller, column 1, lines 6-8) with Chuah's power detection in a receiver of a wireless system such as Universal Mobile Telecommunications System (Chuah, column 1, lines 19-20) to provide the wireless system such as UMTS with multi-detection of receiving and transmitting communications signals (Chuah, column 1, lines 15-20, and lines 49-54), and to provide a system that "each mobile station is continually monitored to ensure that its power levels are high enough to provide good transmission quality yet no higher than necessary to provide that transmission quality and no higher than will create unreasonable interference with other mobile station communications" (Muller, column 2, lines 50-55).

Regarding claim 12, Chuah discloses a digital wireless communications system (see for example, Figure 1) comprising at least one transmitter (see for example, Figure 1, Node-B (6)) having means for transmitting (see for example, column 6, lines 11-19; processor description, and column 6, lines 1-5) first

information units at a first power level (see for example, column 8, lines 12-15, and Figure 8C, Frame 0, and Frame 1), and at least one receiver (see for example, Figure 1, mobile (2)) having means for receiving the transmitted information units (see for example, column 6, lines 11-19; processor description, and column 6, lines 1-5); control means for controlling the transmitter output power (see for example, Figure 1, Radio Network Controller (RNC), column 2, lines 2-5), and the transmitting means transmits second information units associated with the first information units (see for example, column 8, lines 35-43, and Figure 8C, Frame 1), for which first information units does not indicate correct reception has occurred (see for example, column 8, lines 35-43), and the second information units being transmitted at a second power level which is controlled on the basis of the disparity between target and actual quality of reception parameters for said second information units (see for example, column 7, lines 61-67 continued to column 8, lines 1-50, based on the two thresholds DThresh1, PThresh1 and the CRC differences (disparity) first and second power level reception quality is controlled), and the target quality of reception parameter for said second information units is different to the target quality of reception parameter for said first information units (see for example, column 8, lines 35-63, the reception parameter target quality for the second units is different to the target quality for the first units), and the second information units allowing the content of the first information units to be established (see for example, column 8, lines 35-52).

However, Chuah does not specifically teach monitoring means.

Muller discloses monitoring means for monitoring if correct reception of the transmitted units occurred at the receiver (see for example, column 2, lines 55-56, and lines 23-36, the controller monitors the transmission).

It would have been obvious to one of ordinary skill in the art at the time invention was made to combine Muller's wireless communication system power monitoring method and apparatus (Muller, column 1, lines 6-8) with Chuah's power detection in a receiver of a wireless system such as Universal Mobile Telecommunications System (Chuah, column 1, lines 19-20) to provide the wireless system such as UMTS with multi-detection of receiving and transmitting communications signals (Chuah, column 1, lines 15-20, and lines 49-54), and to provide a system that "each mobile station is continually monitored to ensure that its power levels are high enough to provide good transmission quality yet no higher than necessary to provide that transmission quality and no higher than will create unreasonable interference with other mobile station communications" (Muller, column 2, lines 50-55).

Regarding claim 16, Chuah discloses a transmitter station for digital wireless transmission of traffic information to a receiver (see for example, Figure 1, mobile (2), Node-b (6)), said transmitter station having: a transmitter for transmitting first information units at a first power level (see for example, column 8, lines 20-24, the first information is being transmitted) control means for controlling the

transmitter output power (see for example, Figure 1, Radio Network Controller (RNC), column 2, lines 2-5); and monitoring means for monitoring if correct reception of the transmitted units occurred at the receiver wherein the transmitter transmits second information units associated with the first information units for which first information units (see for example, column 8, lines 39-44), and does not indicate correct reception has occurred at a second power level which is controlled on the basis of the disparity between target and actual quality of reception parameters for said second information units (see for example, column 7, lines 61-67 continued to column 8, lines 1-50, based on the two thresholds DThresh1, PThresh1 and the CRC differences (disparity) first and second power level reception quality is controlled),, wherein the target quality of reception parameter for said second information units is different to the target quality of reception parameter for said first information units (see for example, column 8, lines 35-63, the reception parameter target quality for the second units is different to the target quality for the first units), and the second information units allowing the content of the first information units to be established (see for example, column 8, lines 35-52). However, Chuah does not specifically teach monitoring means.

Muller discloses monitoring means for monitoring if correct reception of the transmitted units occurred at the receiver (see for example, column 2, lines 55-56, and lines 23-36, the controller monitors the transmission).

It would have been obvious to one of ordinary skill in the art at the time

invention was made to combine Muller's wireless communication system power monitoring method and apparatus (Muller, column 1, lines 6-8) with Chuah's power detection in a receiver of a wireless system such as Universal Mobile Telecommunications System (Chuah, column 1, lines 19-20) to provide the wireless system such as UMTS with multi-detection of receiving and transmitting communications signals (Chuah, column 1, lines 15-20, and lines 49-54), and to provide a system that "each mobile station is continually monitored to ensure that its power levels are high enough to provide good transmission quality yet no higher than necessary to provide that transmission quality and no higher than will create unreasonable interference with other mobile station communications" (Muller, column 2, lines 50-55).

Regarding claim 20, Chuah discloses a receiver for use in a digital wireless communications system comprising at least one transmitter having means for transmitting first information units at a first power level (see for example, Figure 1, mobile (2) and Node-b (6), column 8, lines 20-24, the first information is being transmitted), and the receiver having means for receiving the transmitted information units (see for example, column 6, lines 11-19; processor description, and column 6, lines 1-5), and control means for controlling the transmitter output power (see for example, Figure 1, Radio Network Controller (RNC), column 2, lines 2-5), wherein the transmitting means transmits second information units associated with the first information units for which first information units and

does not indicate correct reception has occurred (see for example, column 8, lines 39-44), and the second information units being transmitted at a second power level which is controlled on the basis of the disparity between target and actual quality of reception parameters for said second information units (see for example, column 7, lines 61-67 continued to column 8, lines 1-50, based on the two thresholds DThresh1, PThresh1 and the CRC differences (disparity) first and second power level reception quality is controlled), and wherein the target quality of reception parameter for said second information units is different to the target quality of reception parameter for said first information units (see for example, column 8, lines 35-63, the reception parameter target quality for the second units is different to the target quality for the first units), and the second information units allowing the content of the first information units to be established (see for example, column 8, lines 35-52).

However, Chuah does not teach monitoring means.

Muller discloses monitoring means for monitoring if correct reception of the transmitted units occurred at the receiver (see for example, column 2, lines 55-56, and lines 23-36, the controller monitors the transmission).

It would have been obvious to one of ordinary skill in the art at the time invention was made to combine Muller's wireless communication system power monitoring method and apparatus (Muller, column 1, lines 6-8) with Chuah's power detection in a receiver of a wireless system such as Universal Mobile Telecommunications System (Chuah, column 1, lines 19-20) to provide the

wireless system such as UMTS with multi-detection of receiving and transmitting communications signals (Chuah, column 1, lines 15-20, and lines 49-54), and to provide a system that "each mobile station is continually monitored to ensure that its power levels are high enough to provide good transmission quality yet no higher than necessary to provide that transmission quality and no higher than will create unreasonable interference with other mobile station communications" (Muller, column 2, lines 50-55).

Regarding claims 2, 13, 17, Chuah in view of Muller teach claims 1, 12, 16, and further Chuah teaches the target quality of reception parameter for the second information units is greater than the target quality of reception parameter for the first information units (see for example, column 4, lines 46-63).

Regarding claim 3, Chuah in view of Muller teach claims 1, and Muller further teaches quality of reception parameter is chosen on the basis of a target bit error rate or block error rate in the information received (see for example, column 5, lines 41-50).

Regarding claim 4, Chuah in view of Muller teach claim 1, and Muller further teaches the quality of reception parameter is the signal to interference (see for example, column 2, lines 60-65, and column 4, lines 59-60).

Regarding claim 5, Chuah in view of Muller teach claim 1, and Muller further teaches the actual and target quality of reception parameters of received information unit transmissions and decreasing the information unit transmission power level if the quality of reception parameter for received information unit transmissions is greater than the target quality of reception parameter (see for example, column 4, lines 46-54), otherwise increasing the information unit transmission power level if the quality of reception parameter for received information unit transmissions is less than the target quality of reception parameter (see for example, column 4, lines 54-63, and 46-49).

Regarding claim 6, Chuah in view of Muller teach claim 1, and further Chuah teaches the communications link is established by equipment operating in accordance with a communications protocol based on the Universal Mobile Telecommunication System (see for example, column 2, lines 25-26, and lines 53-61).

Regarding claim 7, Chuah in view of Muller teach claim 6, and further Chuah teaches the communications link is established on at least one physical channel (see for example, column 2, lines 25-28).

Regarding claim 8, Chuah in view of Muller teach claim 7, and Muller further teaches the transmit power control (TPC) field carried on a control channel set up



in the communications link (see for example, column 1, lines 28-30, and column 2, lines 62-65).

Regarding claim 9, Chuah in view of Muller teach claim 1, and further Chuah teaches the probability of failed first information units transmission and consequent second information units transmission (see for example, column 10, lines 55-62).

Regarding claim 10, 14, 18, Chuah in view of Muller teach claims 1, 16, and further Chuah teaches maintain a minimum average power consumption (see for example, column 10, lines 19-30).

Regarding claims 11, 15, 19, Chuah in view of Muller teach claims 1, 12, 16, and further Chuah teaches the second information unit transmissions are performed using an initial transmission power boost without reference to the quality of reception parameter (see for example, column 4, lines 39-42).

Regarding claims 21, 25, 29, 33, Chuah in view of Muller teach claims 1, 12, 16, 20, and further Chuah teaches wherein said target quality of reception parameter is increased from a first target level to a second target level when said first information units are not correctly received (see for example, column 4, lines 32-67, column 8, lines 20-63), so that said second information units are

transmitted at said second power level which is greater than said first power level of said first information units (see for example, column 4, lines 32-67, column 8, lines 20-63).

Regarding claims 22, 26, 30, 34, Chuah in view of Muller teach claims 1, 12, 16, 20, and further Chuah teaches wherein said target quality of reception parameter is decreased from said second target level to said first target level when said second information units are correctly received (see for example, column 4, lines 32-67, column 8, lines 20-63, reception parameter adjusted (decreased)).

Regarding claims 23, 27, 31, 35, Chuah in view of Muller teach claims 1, 12, 16, 20, and further Chuah teaches wherein said target quality of reception parameter is progressively increased (see for example, column 4, lines 32-67, column 8, lines 20-63, reception parameter adjusted (increased)).

Regarding claims 24, 28, 32, 36, Chuah in view of Muller teach claims 1, 12, 16, 20, and further Chuah teaches wherein a change between said first power level and said second power level is progressive (see for example, column 4, lines 32-67, column 8, lines 20-63, reception parameter adjusted (change)).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

### Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaima Q. Aminzay whose telephone number is 571-272-7874. The examiner can normally be reached on 7:00 AM -5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Shaima Q. Aminzay  
(Examiner)

EDAN ORGAD  
PATENT EXAMINER/TELECOMM.

6-0. 1/6/06

Nay A. Maung  
(SPE)

Art Unit 2684

December 28, 2005